

Application No. 10/718,393
Amendment Dated: October 20, 2006
Reply to Office Action of: July 20, 2006

REMARKS/ARGUMENTS

Applicant has amended claims 1 and 21. New claims 22 and 23 have been added. Claims 8-13 are withdrawn. Upon entry of the amendments, claims 1-7 and 14-23 remain for consideration.

CLAIM REJECTIONS-35 U.S.C. §112

Claims 1-7 and 14-21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claim 1 was objected to for a functional recitation and claim usage of "they".

Applicant has amended claims 1 and 21 to obviate any 35 U.S.C. §112 rejection and any other objections that may have been properly asserted.

The Examiner indicated that claims 1-7 and 14-20 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph. Accordingly, Applicant respectfully submits that claims 1-7 and 14-20 are now in condition for allowance.

CLAIM REJECTIONS-35 U.S.C. §102

The Examiner rejected claim 21 as being anticipated under 35 U.S.C. §102(b) as being anticipated by Ernst U.S. Patent No. 4,771,919.

Claim 21 as amended recites as follows:

21. A device for mixing and dispensing multi-component compositions, ~~in particular for dental purposes~~, comprising:
a cartridge with at least two cylindrical chambers arranged in parallel, each having a plunger and an outlet opening;
a transverse wall disposed between said outlet openings;
a movable cap having an outlet tube, said cap being movable between a closed position to an open position; and
a mixing helix disposed within said outlet tube,
wherein said mixing helix is fastened to said transverse wall.

Applicant respectfully traverses the Examiner's rejection of claim 21. Ernst U.S. Patent No. 4,771,919 when properly considered, does not disclose a device wherein the mixing helix is fastened to the transverse wall as required in Applicant's claim 21. First, it is not understood how the web 15 and nozzle 36 of web are analogous to the recited transverse wall and mixing helix of claim 21 except in a highly generalized interpretation. To the extent Ernst is pertinent, the analogous transverse wall would be divider 34 and the analogous mixing helix would be static mixer 46. Second, the Ernst elements 34 and 46 (and also elements 15 and 36) are not "fastened" as recited. This absence of the "fastened" feature is clearly illustrated in Ernst Figure 1. In further explanation of the structure at column 2, lines 49-53, Ernst states as follows:

The tube includes at a base a slot 42 for receiving the divider 34 formed on the end of the neck 18. At the end of the slot, a tortuous path for the components is formed by the insertion of a static mixer 46 in the tube.

It is very clear from the foregoing passage and Figures 1 and 2 that the analogous transverse wall, e.g., divider 34 and the static mixer 46 in Ernst are

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not fastened to each other and consequently, claim 21 cannot be anticipated by Ernst.

Moreover, it is apparent that claim 21 as amended would not be obvious in view of the Ernst reference. For example, the specific stated object of the Ernst reference is to deliver quantities of adhesives in such a way that use of such material can easily be resumed after stopping (column 1, line 36). By contrast, with the recited features of Applicant's claim 21, in practice, if the two components of curing and hardening in the mixing helix were stopped for any significant period of time, the use of the mixing helix would likely not be possible in Applicant's invention. Accordingly, applicant respectfully submits that claim 21 as amended is patentable.

New claim 22 which depends on claim 1 is patentable for the reasons advanced for claim 1. In addition, there is no proper teaching for the use of the claimed device in dental applications as recited.


Claim 23 which depends on claim 22 is patentable for the reasons advanced for claim 22. In addition, there is no proper teaching or suggestion whatsoever in the cited Ernst reference for use in a dental application.

For the foregoing reasons, it is respectfully submitted that all of the claims in the application which remain pending are in condition for allowance. Accordingly, favorable reconsideration by the Examiner is respectfully solicited.

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Respectfully Submitted,

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